REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, AUGUST 11, 2020 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.

2. The Proceedings were opened with Prayer said by the Speaker.

3. **PETITIONS**

   Pursuant to Standing Order 232(2) the Chairperson of the Standing Committee on Labour and Social Welfare presented reports of the Committee on the following petitions -

   (i) Petition to the Senate by the Kenya Union on Clinical Officers regarding alleged refusal by the Ministry of Health and county governments, to conclude on the collective bargaining agreement negotiations; and

   (ii) Petition to the Senate by Mr. Patrick Wambua regarding the plight of former Machakos County Ward Representative staff.

4. **PAPERS LAID**

   The following Papers were laid on the Table of the Senate: -

   i) The Report of the Standing Committee on Labour and Social Welfare on the Petition to the Senate by the Kenya Union on Clinical Officers regarding alleged refusal by the Ministry of Health and county governments, to conclude on the collective bargaining agreement negotiations.

   ii) The Report of the Standing Committee on Labour and Social Welfare on the Petition to the Senate by Mr. Patrick Wambua regarding the plight of former Machakos County Ward Representative staff Petition to the Senate by Mr. Patrick Wambua regarding the plight of former Machakos County Ward Representative staff

(Chairperson, Standing Committee on Labour and Social Welfare)

iii) Statement on the business of the Senate for the week commencing Tuesday, 8th September, 2020.

(The Senate Majority Leader)

5. STATEMENTS

(a) Pursuant to Standing Order 47

Seneta wa Kaunti ya Mombasa Mheshimiwa Mohamed Faki alimshukuru Mheshimiwa Spika kwa kumpa fursa ya kutuma rambirambi zake na za wakazi wa Mombasa kwa familia na marafiki wa mwendazake marehemu Ramadhan Seif Kajembe.

Mheshimiwa Faki aliijulisha Seneti kuwa marehumu Kajembe alihudumu kama Mbunge wa eneo Bunge la Changamwe kwa muda wa miaka kumi na tano (15) hadi mwaka wa 2013 ambapo alistaafu kutoka siasa na kuhudumu kama mwenyekiti wa Bodi ya Kitaifa ya Huduma za Feri.

Seneta Faki alizidi kuijulisha Seneti kuwa mheshimiwa Kajembe alichangia pakubwa maendeleo katika Jiji la Mombasa na katika eneo bunge la Changamwe pamoja na kujenga shule nyingi ikiwemo Shule ya Upili ya Kajembe ambayo aliianzisha mwenyewe binafsi kabla ya kuchukuliwa na Mfuko wa Ustawi wa Maeneo Bunge (CDF) katika eneo bunge la Changamwe. Mheshimiwa Faki alielezea kwamba kando na kukuza sekta ya elimu eneo Bunge la Changamwe, Marehemu Kajembe alichangia pakubwa katika ukuzaji wa elimu Jijini Mombasa.

Mheshimiwa Faki alielezea kuwa marehemu Kajembe vilevile alichangia pakubwa katika kukuza wanasiasa chipukizi wakiwemo Mheshimiwa Badi ambaye anawakilisha eneo bunge la Jomvu ambako ndiko Mheshimiwa Kajambe alikotoka.

Seneta Faki aliieleza Seneti kuwa marehemu Kajembe alianza kuugua wiki mbili zilizopita na jioni ya Ijumaa tarehe saba mwezi wa nane mwaka huu wa 2020, akaaga dunia alipokuwa anapokea matibabu katika hospitali ya Pandya.

Akimalizia mchango wake, Mheshimiwa Faki aliifahamisha Seneti kuwa jamii yake na watu wa Mombasa wanaomboleza kifo cha marehemu Mheshimiwa Ramadhan Seif Kajembe kwa sababu alikuwa kiongozi wa tajriba kubwa, Sen. Faki alimsihi Mwenyezi Mungu ailaze roho ya marehemu Kajembe mahali pema peponi.

(b) Pursuant to Standing Order 52 (1)

The Senate Majority Leader issued a statement on the business of the Senate for the week commencing Tuesday, 8th September, 2020.

6. **MOTION – APPROVAL OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**

Order read;

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Third Basis for Revenue Allocation Among the County Governments, laid on the Table of the Senate on Monday, 13th July, 2020, and that pursuant to Article 217 of the Constitution, approves the proposed Third Basis for Revenue Allocation Among the County Governments as contained in the Report.

(Chairperson, Standing Committee on Finance and Budget – 28/07/2020)

Debate on the amendments by Sen. Sakaja, MP to the motion, interrupted on 4th August, 2020 resumed;

Amendment to the amendment by Sen. Johnson Sakaja, MP,

Motion made and Question proposed-

THAT the amendment be amended by-

i) deleting part (a) and replacing it with the following-

a) **Equitable share not exceeding Kshs. 270 billion**
   The following formula shall apply
   CA_i1= O.45PN_i +0.26ES_i+0.18PI_i+0.08LA_i+0.02FE_i[1]+0.01DF_i [2]

   Where,

   CA_i1 is revenue allocation of the ith County; PN_i is Population Factor (Population of ith County/total population); ES_i is Basic Equal Share Factor (Total Equal share/47); PI_i is Poverty Gap (Poverty Resources of ith County/total poverty Resources); LA_i Land Area Factor (Land Area (Sq. Kms.) of ith County/Total Land area); FE_i is Fiscal Effort

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[1] Fiscal Effort Index used in the FY 2019/20
[2] The formula will use the 2009 population & poverty statistics

Factor (County's own revenue increment/2009 population of the ith County); and DF_i is Development Factor=

$$\frac{1}{3}\left(\frac{Ei * Ni}{Sumi\left((Ei * Ni)\right)} + \frac{Wi * Ni}{Sumi(Wi * Ni)} + \left(\frac{URNi}{SumiURNi}\right)\right)$$

Where E_i is proportion of household with access to electricity of the ith County

W_i is proportion of household without access to improved water of the ith County

URN_i is Un-paved road network of class D, E, F, G, H, J, K, M, N & P of the ith County.

ii)   deleting part (b) and replacing it with the following-

b) <u>Equitable share over and above Kshs. 270 billion</u>

The following formula shall apply

CA_i2= 0.16*Population Index$_i$+ 0.19*Health Index$_i$+0.11* Agriculture Index$_i$+ 0.05*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.08*Land Area Index$_i$ +0.01*Fiscal Effort$_i$+0.06*Roads Index$_i$ +0.20* Basic Share Index$_i$ [3]

      Where,

Parameter	Indicator of Expenditure Need
Health services	Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%)and three years average in-patient days in levels 4 and 5 hospitals (20%) $\text{Facilty gap factor}_i = \dfrac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47} \text{facilty gap funding in county i}}$ $\text{Primary health care factor}_i = \dfrac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47} \text{No. of primary health care visits in county i}}$ $\text{In} - \text{patient days factor}_i = \dfrac{\text{No. of in} - \text{patient days in county i}}{\sum_{i=1}^{47} \text{No. of in} - \text{patient days in county i}}$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \dfrac{\text{Rural households in county i}}{\sum_{i=1}^{47} \text{Rural households in county i}}$
Other county services	$\text{Population index}_i = \dfrac{\text{Population in county i}}{\sum_{i=1}^{47} \text{Population in county i}}$

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[3] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

Minimum share	Basic share index $= 0.19 * \text{Equal Share index} + 0.01 * \dfrac{\text{inverse of population in county i}}{\sum_{i=1}^{47} \text{inverse of population in county i}}$
Land	$\text{Land area index}_i = \dfrac{\text{Land area in county i}}{\sum_{i}^{47} \text{Land area in county i}}$
Roads	$\text{Roads index}_i = \dfrac{\text{Rural access index in county i}}{\sum_{i=1}^{47} \text{Rural access index in county i}}$
Poverty level	$\text{Poverty index}_i = \dfrac{\text{No. of poor people in county i}}{\sum_{i=1}^{47} \text{No. of poor people in county i}}$
Urban service	$\text{Urban Index } i = \dfrac{\text{urban household in county i}}{\sum_{i=1}^{47} \text{Urban Household in County i}}$
Fiscal effort	$\text{Fiscal effort index}_i = \dfrac{\text{OSR collections of county i}}{\text{GCP of county i}}$

The basis used is as shown

No.	Parameter	Weight
1	Population	16%
2	Health	19%
3	Agriculture	11%
4	Urban	5%
5	Roads	6%
6	Poverty	14%
7	Land	8% capped
8	Basic Share	20%
9	Fiscal Effort	1%
10	Fiscal Prudence	0%

iii)   deleting part (c) and replacing it with the following-

c) **Total Equitable share of a County**

The following formula shall apply

TES$_i$= CA$_i$1+CA$_i$2

Whereas;
TES$_i$ = Total Equitable share of County $_i$
CA$_i$1= Equitable share not exceeding Kshs. 270 billion
CA$_i$2 =Equitable share over and above Kshs. 270 billion

SIMULATION FOR ILLUSTRATION ONLY

Simulation using Equitable share of Kshs. 316.5 billion for FY 2020/2021 applying the proposed amendment to Sen. Sakaja's amendment-

No	County	Actual Allocations 2019/20	Equitable share of Kshs. 270 billion using 2nd generation formula	Application of Remaining Kshs. 46.5 billion using Sen. Linturi Amendment	New Allocation Ksh 316,500)	Net Change between FY19/20 Allocation & Proposed FY 2020/21 Allocation
1	Mandera	10,222.95	8,721.00	1,256.69	9,977.69	(245.26)
2	Kwale	7,785.90	6,642.00	966.00	7,608.00	(177.90)
3	Wajir	8,545.50	7,290.00	1,079.88	8,369.88	(175.62)
4	Marsabit	6,773.10	5,778.00	838.16	6,616.16	(156.94)
5	Kilifi	10,444.50	8,910.00	1,381.08	10,291.08	(153.42)
6	Mombasa	7,057.95	6,021.00	901.77	6,922.77	(135.18)
7	Narok	8,039.10	6,858.00	1,050.68	7,908.68	(130.42)
8	Makueni	7,406.10	6,318.00	980.91	7,298.91	(107.19)
9	Nyamira	4,810.80	4,104.00	608.86	4,712.86	(97.94)
10	Tana-River	5,855.25	4,995.00	780.53	5,775.53	(79.72)
11	Tharaka-Nithi	3,924.60	3,348.00	500.42	3,848.42	(76.18)
12	Garissa	7,026.30	5,994.00	957.15	6,951.15	(75.15)
13	Vihiga	4,652.55	3,969.00	615.47	4,584.47	(68.08)
14	Isiolo	4,241.10	3,618.00	581.37	4,199.37	(41.73)
15	Homa-Bay	6,741.45	5,751.00	961.31	6,712.31	(29.14)
16	Kisii	7,785.90	6,642.00	1,119.16	7,761.16	(24.74)
17	Taita-Taveta	4,241.10	3,618.00	606.96	4,224.96	(16.14)
18	Murang'a	6,298.35	5,373.00	909.37	6,282.37	(15.98)
19	Samburu	4,620.90	3,942.00	675.42	4,617.42	(3.48)
	Total Loss	**126,473.40**	**107,892.00**	**16,771.20**	**124,663.20**	**(1,810.20)**
1	Kitui	8,830.35	7,533.00	1,303.12	8,836.12	5.77
2	Nyandarua	4,874.10	4,158.00	722.01	4,880.01	5.91
3	Nyeri	5,412.15	4,617.00	801.39	5,418.39	6.24
4	Turkana	10,539.45	8,991.00	1,557.89	10,548.89	9.44
5	Lamu	2,595.30	2,214.00	398.51	2,612.51	17.21
6	Elgeyo-Marakwet	3,861.30	3,294.00	586.50	3,880.50	19.20
7	Kisumu	6,836.40	5,832.00	1,031.70	6,863.70	27.30
8	Meru	8,039.10	6,858.00	1,209.33	8,067.33	28.23
9	Migori	6,773.10	5,778.00	1,026.69	6,804.69	31.59
10	Embu	4,304.40	3,672.00	672.60	4,344.60	40.20
11	Siaya	5,791.95	4,941.00	893.94	5,834.94	42.99
12	Busia	6,013.50	5,130.00	928.49	6,058.49	44.99
13	Kericho	5,380.50	4,590.00	836.15	5,426.15	45.65
14	Machakos	7,754.25	6,615.00	1,188.13	7,803.13	48.88
15	Kakamega	10,412.85	8,883.00	1,598.86	10,481.86	69.01
16	Bomet	5,507.10	4,698.00	878.79	5,576.79	69.69
17	Bungoma	8,893.65	7,587.00	1,379.02	8,966.02	72.37
18	Laikipia	4,177.80	3,564.00	689.37	4,253.37	75.57
19	Kirinyaga	4,241.10	3,618.00	702.66	4,320.66	79.56
20	Baringo	5,095.65	4,347.00	831.86	5,178.86	83.21
21	West Pokot	5,000.70	4,266.00	818.24	5,084.24	83.54
22	Kajiado	6,424.95	5,481.00	1,031.13	6,512.13	87.18
23	Trans-Nzoia	5,760.30	4,914.00	940.48	5,854.48	94.18
24	Nairobi City	15,919.95	13,581.00	2,459.53	16,040.53	120.58
25	Uasin-Gishu	6,330.00	5,400.00	1,072.56	6,472.56	142.56
26	Nakuru	10,476.15	8,937.00	1,688.21	10,625.21	149.06
27	Nandi	5,348.85	4,563.00	935.14	5,498.14	149.29
28	Kiambu	9,431.70	8,046.00	1,546.50	9,592.50	160.80
	Total	**190,026.60**	**162,108.00**	**29,728.80**	**191,836.80**	**1,810.20**

(Sen. Mithika Linturi, MP)

Debate arising;

7)   **MOTION – EXTENSION OF SITTING TIME PURSUANT TO STANDING ORDER 31 (3) (a)**

Motion made and Question proposed;

   THAT, pursuant to Standing Order 31 (3)(a), the Senate resolves to extend its sitting until the conclusion of business listed in Order No. 8 in today's Order Paper.

(Sen. George Khaniri, MP)

And there being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order No. 79 (1), the Temporary Speaker (Sen. Rose Nyamunga, MP) informed the House that the Motion did not affect counties.

Question put and <u>agreed to.</u>

8) **MOTION – APPROVAL OF THE THIRD BASIS FOR REVENUE ALLOCATION AMONG THE COUNTY GOVERNMENTS**

Motion made and Question proposed;

   THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Third Basis for Revenue Allocation Among the County Governments, laid on the Table of the Senate on Monday, 13th July, 2020, and that pursuant to Article 217 of the Constitution, approves the proposed Third Basis for Revenue Allocation Among the County Governments as contained in the Report.

(Chairperson, Standing Committee on Finance and Budget – 28/07/2020)

Debate, on amendment to an amendment, interrupted, resumed;

There being no other Senator wishing to contribute;

The Temporary Speaker (Sen. Rose Nyamunga, MP), directed that roll call be taken pursuant to Standing Order 83 (1), and in line with the further Guidelines by the Speaker for Senate plenary and Committee sittings during the Covid-19 pandemic situation dated 17th April, 2020, and that the Division bell be rung for one minute;

The names of the Tellers were announced;
   1. Sen. Mutula Kilonzo Jr - YES
   2. Sen. Samuel Poghisio - NOES

After the expiry of one minute, the Temporary Speaker (Sen. Rose Nyamunga, MP) directed that the doors be locked and the bars be drawn;

The Temporary Speaker (Sen. Rose Nyamunga, MP) put the Question and directed the Clerk to call out the names of Senators in alphabetical order;

The results of the Division were as follows-

AYES – 25   **NOES - 20**   **ABSTENTION – 0**

AYES
1. Sen. Adan, Dullo Fatuma
2. Sen. Ali, Abdullahi Ibrahim
3. Sen. Boy, Issa Juma
4. Sen. Cheruiyot, Aaron Kipkirui
5. Sen. Iman, Falhada Dekow – voted on behalf of the Garissa County delegation
6. Sen. Waqo, Naomi Jillo – voted on behalf of the Marsabit County
7. Sen. Imana, Malachy Charles Ekal
8. Sen. Kabaka, Boniface Mutinda
9. Sen. Khaniri, George
10. Sen. Kindiki, Kithure
11. Sen. Lang'at, Christopher Andrew
12. Sen. Lelegwe, Ltumbesi
13. Sen. Linturi, Franklin Mithika
14. Sen. Madzayo, Stewart Mwachiru
15. Sen. Mahamud, Mohamed Maalim
16. Sen. Malalah, Cleophas Wakhungu
17. Sen. Mogeni, Erick Okong'o
18. Sen. Murkomen, Onesimus Kipchumba
19. Sen. Mutula, Kilonzo Junior
20. Sen. Mwaruma, Johnes Mwashushe
21. Sen. Mwinyihaji, Mohamed Faki
22. Sen. Olekina, Ledama
23. Sen. Sakaja, Johnson Arthur
24. Sen. Wambua, Enoch Kiio
25. Sen. Wario, Golich Juma

NOES
1. Sen. Cherarkey, Samson Kiprotich
2. Sen. Kajwang', Moses Otieno
3. Sen. Kamar, Margaret Jepkoech
4. Sen. Kang'ata, Irungu
5. Sen. Kibiru, Charles Reubenson
6. Sen. Kihika, Susan Wakarura
7. Sen. Kimani, Wamatangi Paul
8. Sen. Kirinyaga, Ephraim Mwangi Maina
9. Sen. Mbito, Michael Maling'a
10. Sen. Mbogo, George Ochilo Ayacko
11. Sen. Mwangi Paul Githimo
12. Sen. Nderitu, John Kinyua

13. Sen. Ndwiga, Peter Njeru
14. Sen. Moi, Gideon Kipsielei Towett
15. Sen. Ongeri, Samson Kegengo
16. Sen. Orengo, James
17. Sen. Outa, Fredrick Otieno
18. Sen. Poghisio, Samuel Losuron
19. Sen. Wako, Sitswila Amos
20. Sen. Wetang'ula, Moses Masika

Question <u>agreed to</u>.

<u>RESOLVED ACCORDINGLY</u>

THAT, the amendment by Sen. Johnson Sakaja, MP to the Motion on the Report of the Standing Committee on Finance and Budget on the Third Basis for Revenue Allocation Among the counties the share of national revenue for Financial Years 2020/2021 to 2024/2025 be amended in the manner proposed by Sen. Mithika Linturi, MP, as appears on the Order Paper.

<u>Further Amendment to the amendment</u>

THAT the amended be amended by deleting part (b) and (c) and replacing with the following-

b) <u>Equitable share for FY 2021/22</u>
i)   The following formula shall apply

CA_i= Allocation for FY 2019/20- { Allocation for FY 2019/20 - 0.16*Population Index$_i$+ 0.20*Health Index$_i$+0.12* Agriculture Index$_i$+ 0.04*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.05*Land Area Index$_i$ +0.01*Fiscal Effort$_i$+0.07*Roads Index$_i$+0.01* Prudence Index$_i$ +0.20* Basic Share Index$_i$ [4]} + (0.5*Loss/gain of County$_i$)

Where,

Parameter	Indicator of Expenditure Need
Health services	Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%)and three years average in-patient days in levels 4 and 5 hospitals (20%) $$\text{Facilty gap factor}_i = \frac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47} \text{facilty gap funding in county i}}$$ $$\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47} \text{No. of primary health care visits in county i}}$$ $$\text{In} - \text{patient days factor}_i = \frac{\text{No. of in} - \text{patient days in county i}}{\sum_{i=1}^{47} \text{No. of in} - \text{patient days in county i}}$$

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[4] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \dfrac{\text{Rural households in county i}}{\sum_{i=1}^{47} \text{Rural households in county}}$
Other county services	$\text{Population index}_i = \dfrac{\text{Population in county i}}{\sum_{i=1}^{47} \text{Population in county i}}$
Minimum share	Basic share index $= 0.19 * \text{Equal Share index} + 0.01 * \dfrac{\text{inverse of population in county i}}{\sum_{i=1}^{47} \text{inverse of population in county i}}$
Land	$\text{Land Index}_i = \dfrac{\sqrt{Land}\, Area\ in\ County\ i}{\sum_{i=1}^{47} \sqrt{Land}\ area\ in\ County\ i}$
Roads	$\text{Roads index}_i = \dfrac{\text{Rural access index in county i}}{\sum_{i=1}^{47} \text{Rural access index in county i}}$
Poverty level	$\text{Poverty index}_i = \dfrac{\text{No. of poor people in county i}}{\sum_{i=1}^{47} \text{No. of poor people in county i}}$
Urban service	$Urban\ Index\ i = \dfrac{urban\ household\ in\ county\ i}{\sum_{i=1}^{47} Urban\ Household\ in\ County\ i}$
Fiscal effort	$\text{Fiscal effort index}_i = \dfrac{\text{OSR collections of county i}}{\text{GCP of county i}}$

Fiscal prudence

No.	Variable	Indicator	Score	Responsible	Weighting
1	Audit Reports	Non-Qualified	4	County Executive & Assembly	CE=90% CA=10%
		Qualified	2		
		Adverse	0		
		Disclaimer	0		
2	Development Expenditure	At least 30%	1	County Government	100%
		Below 30%	0		
4	Internal Audit Committee	In place	1	County Executive & Assembly	CE=90% CA=10%
4	County Budget and Economic Forum	In place	1	County Government	100%
		Not In place	0		

The basis used is as shown

No.	Parameter	Weight
1	Other County Services	16%
2	Health	20%
3	Agriculture	12%
4	Urban	4%
5	Roads services	7%
6	Poverty	14%
7	Land	5%
8	Basic Share	20%
9	Fiscal Effort	1%
10	Fiscal Prudence	1%

SIMULATION FOR ILLUSTRATION ONLY
Simulation using Equitable share of Kshs. 316.5 billion for FY 2021/22 using Committee Proposed Formula with 50% cushioning from the gaining counties (Part(b)(ii))

No	County	2019/20 Allocation	Committee proposal	Net Change with committee proposal	50%/50%-cushioning	Total Allocation
1	Wajir	8,545.50	6,521	**(2,024.81)**	**(1,012.40)**	7,533.10
2	Marsabit	6,773.10	4,846	**(1,926.67)**	**(963.33)**	5,809.77
3	Mandera	10,222.95	8,307	**(1,916.43)**	**(958.22)**	9,264.73
4	Garissa	7,026.30	5,379	**(1,646.81)**	**(823.40)**	6,202.90
5	Tana-River	5,855.25	4,269	**(1,586.33)**	**(793.16)**	5,062.09
6	Mombasa					

		7,057.95	6,032	**(1,025.50)**	**(512.75)**	6,545.20
7	Kwale	7,785.90	6,774	**(1,011.72)**	**(505.86)**	7,280.04
8	Narok	8,039.10	7,057	**(981.89)**	**(490.95)**	7,548.15
9	Isiolo	4,241.10	3,371	**(869.85)**	**(434.93)**	3,806.17
10	Kilifi	10,444.50	9,585	**(859.98)**	**(429.99)**	10,014.51
11	Turkana	10,539.45	9,992	**(547.11)**	**(273.55)**	10,265.90
12	Kitui	8,830.35	8,398	**(432.85)**	**(216.42)**	8,613.93
13	Makueni	7,406.10	6,974	**(432.54)**	**(216.27)**	7,189.83
14	Nyamira	4,810.80	4,388	**(423.19)**	**(211.59)**	4,599.21
15	Samburu	4,620.90	4,217	**(403.63)**	**(201.81)**	4,419.09
16	Taita-Taveta	4,241.10	3,841	**(399.61)**	**(199.80)**	4,041.30
17	Tharaka-Nithi	3,924.60	3,587	**(338.05)**	**(169.02)**	3,755.58
18	Vihiga	4,652.55	4,414	**(239.00)**	**(119.50)**	4,533.05
	Total Loss	**125,017.50**	**107,951.55**	**(17,065.95)**	**(8,532.98)**	**116,484.52**
1	Nairobi City	15,919.95	16,044	**123.88**	**61.94**	15,981.89
2	Homa-Bay	6,741.45	6,872	**130.51**	**65.25**	6,806.70
3	Kisii	7,785.90	7,917	**130.96**	**65.48**	

						7,851.38
4	Kajiado	6,424.95	6,564	**139.42**	**69.71**	6,494.66
5	Murang'a	6,298.35	6,472	**173.32**	**86.66**	6,385.01
6	Lamu	2,595.30	2,786	**190.85**	**95.43**	2,690.73
7	Nyeri	5,412.15	5,656	**243.90**	**121.95**	5,534.10
8	Elgeyo-Marakwet	3,861.30	4,180	**318.74**	**159.37**	4,020.67
9	Nyandarua	4,874.10	5,194	**320.30**	**160.15**	5,034.25
10	Kisumu	6,836.40	7,227	**390.93**	**195.47**	7,031.87
11	Meru	8,039.10	8,513	**473.72**	**236.86**	8,275.96
12	Embu	4,304.40	4,809	**504.81**	**252.41**	4,556.81
13	Laikipia	4,177.80	4,701	**523.22**	**261.61**	4,439.41
14	Machakos	7,754.25	8,306	**551.55**	**275.77**	8,030.02
15	Busia	6,013.50	6,573	**559.61**	**279.81**	6,293.31
16	Kericho	5,380.50	5,947	**566.63**	**283.31**	5,663.81
17	Migori	6,773.10	7,348	**574.60**	**287.30**	7,060.40
18	Siaya	5,791.95	6,379	**586.61**	**293.30**	6,085.25
19	Baringo	5,095.65	5,760	**663.85**	**331.93**	5,427.58
20	West Pokot	5,000.70	5,693	**692.35**	**346.17**	5,346.87

21	Bomet	5,507.10	6,237	**730.21**	**365.10**	5,872.20
22	Kirinyaga	4,241.10	5,003	**762.31**	**381.15**	4,622.25
23	Bungoma	8,893.65	9,820	**926.70**	**463.35**	9,357.00
24	Trans-Nzoia	5,760.30	6,755	**994.69**	**497.34**	6,257.64
25	Kakamega	10,412.85	11,436	**1,022.69**	**511.34**	10,924.19
26	Kiambu	9,431.70	10,492	**1,060.53**	**530.27**	9,961.97
27	Nakuru	10,476.15	11,631	**1,155.12**	**577.56**	11,053.71
28	Uasin-Gishu	6,330.00	7,522	**1,191.92**	**595.96**	6,925.96
29	Nandi	5,348.85	6,711	**1,362.02**	**681.01**	6,029.86
	Total Gains	**191,482.50**	**208,548.45**	**17,065.95**	**8,532.98**	**200,015.48**
	Total	**316,500**	**316,500**	-	-	**316,500**

ii)   Further cushioning losing counties for FY 2021/22
Further, the National Treasury to provide additional funds equal to the losses arising from the application of the formula (part (b)(ii)) for the FY 2021/22 to cushion the losing counties.

SIMULATION FOR ILLUSTRATION ONLY
Simulation using additional Kshs. 8.532 billion (loss occurring with equitable share of Kshs. 316.5billion) for cushioning the losing counties for FY 2021/22 after cushioning in part b (ii) above for Illustration Purpose

County	2019/20 Allocations	Allocations as per Committee Proposal	Allocations as per (ii) above Cushioning	Variance	Cushioning with additional funds from National Treasury	Total Allocations as per cushioning (iii)
Vihiga	4,652.55	4,413.55	4,533.05	(119.50)	119.50	4,652.55
Tharaka-Nithi	3,924.60	3,586.55	3,755.58	(169.02)	169.02	3,924.60
Taita-Taveta	4,241.10	3,841.49	4,041.30	(199.80)	199.80	4,241.10
Samburu	4,620.90	4,217.27	4,419.09	(201.81)	201.81	4,620.90
Nyamira	4,810.80	4,387.61	4,599.21	(211.59)	211.59	4,810.80
Makueni	7,406.10	6,973.56	7,189.83	(216.27)	216.27	7,406.10
Kitui	8,830.35	8,397.50	8,613.93	(216.42)	216.42	8,830.35
Turkana	10,539.45	9,992.34	10,265.90	(273.55)	273.55	10,539.45
Kilifi	10,444.50	9,584.52	10,014.51	(429.99)	429.99	10,444.50
Isiolo	4,241.10	3,371.25	3,806.17	(434.93)	434.93	4,241.10
Narok	8,039.10	7,057.21	7,548.15	(490.95)	490.95	8,039.10
Kwale	7,785.90	6,774.18	7,280.04	(505.86)	505.86	7,785.90
Mombasa	7,057.95	6,032.45	6,545.20	(512.75)	512.75	7,057.95
Tana-River	5,855.25	4,268.92	5,062.09	(793.16)	793.16	5,855.25
Garissa	7,026.30	5,379.49	6,202.90	(823.40)	823.40	7,026.30
Mandera	10,222.95	8,306.52	9,264.73	(958.22)	958.22	10,222.95
Marsabit	6,773.10	4,846.43	5,809.77	(963.33)	963.33	6,773.10
Wajir	8,545.50	6,520.69	7,533.10	(1,012.40)	1,012.40	8,545.50
Total				**(8,532.98)**	**8,532.98**	**125,017.50**

c) **Equalization Fund**
   The Senate resolves to expedite approval of the Equalization Fund Bill (National Assembly Bills No. 43 of 2019. Further that, the National Treasury shall expedite operationalization of the equalization fund within a period of three (3) months of the passage of this motion to ensure the

quality of services in the marginalized areas are brought to a level generally enjoyed by the rest of the nation.

d) **Review of Economic Activities relating to Agriculture**
That the Commission on Revenue Allocation (CRA) in reviewing the vertical sharing of revenue for Financial Year 2021/22 should further review the matters relating to the parameter on the Agriculture in the Third Basis of Sharing of Revenue among counties. The review on the parameter of Agriculture should seek to include other economic activities such as livestock keeping/ pastoralism, fishing and blue economy.

(Sen. Kimani Wamatangi, MP)

Amendment - Dropped

Question on the Motion <u>as amended</u> proposed;

Rising in his place on a point of order and pursuant to Standing Order 61 (3), the Senator for Elgeyo Marakwet County (Sen. Kipchumba Murkomen, MP) claimed to move that **"the Mover be now called upon to reply";**

And the Speaker declining the claim;

Debate on the Motion as amended resumed;

Amendment proposed

THAT the Motion be amended by deleting the full stop at the end and inserting the following words-

'subject to the deletion of recommendation appearing as paragraph 26 of the Report and substituting therefor the following new recommendation-

26)   The Senate resolves that pursuant to Article 217 (1) of the Constitution, the Third Basis for sharing revenue among counties, for the Financial Year 2020/2021 to 2024/2025 be as follows –

a) **<u>Equitable share not exceeding Kshs. 316.50 billion</u>**
The following formula shall apply
CA_i1= Allocation per County for FY 2019/20

b) **<u>Equitable share over and above Kshs. 316.50 billion</u>**
The following formula shall apply
CA_i2= 0.18*Population Index$_i$+ 0.17*Health Index$_i$+0.10* Agriculture Index$_i$+ 0.05*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.08*Land Area Index$_i$ +0.01*Fiscal Effort$_i$+0.06*Roads Index$_i$+0.01* Prudence Index$_i$ +0.20* Basic Share Index$_i$ [5]

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[5] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

Where,

Parameter	Indicator of Expenditure Need
Health services	Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%)and three years average in-patient days in levels 4 and 5 hospitals (20%) $$\text{Facilty gap factor}_i = \frac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47} \text{facilty gap funding in county i}}$$ $$\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47} \text{No. of primary health care visits in county i}}$$ $$\text{In}-\text{patient days factor}_i = \frac{\text{No. of in}-\text{patient days in county i}}{\sum_{i=1}^{47} \text{No. of in}-\text{patient days in county i}}$$
Agriculture services	$$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \frac{\text{Rural households in county i}}{\sum_{i=1}^{47} \text{Rural households in county i}}$$
Other county services	$$\text{Population index}_i = \frac{\text{Population in county i}}{\sum_{i=1}^{47} \text{Population in county i}}$$
Minimum share	Basic share index $$= 0.19 * \text{Equal Share index} + 0.01 * \frac{\text{inverse of population in county i}}{\sum_{i=1}^{47} \text{inverse of population in county i}}$$
Land	$$\text{Land area index}_i = \frac{\text{Land area in county i}}{\sum_{i}^{47} \text{Land area in county i}}$$
Roads	$$\text{Roads index}_i = \frac{\text{Rural access index in county i}}{\sum_{i=1}^{47} \text{Rural access index in county i}}$$
Poverty level	$$\text{Poverty index}_i = \frac{\text{No. of poor people in county i}}{\sum_{i=1}^{47} \text{No. of poor people in county i}}$$
Urban service	$$\textit{Urban Index i} = \frac{\textit{urban household in county i}}{\sum_{i=1}^{47} \textit{Urban Household in County i}}$$
Fiscal effort	$$\text{Fiscal effort index}_i = \frac{\text{OSR collections of county i}}{\text{GCP of county i}}$$

Fiscal prudence

No.	Variable	Indicator	Score	Responsible	Weighting
1	Audit Reports	Non-Qualified	4	County Executiv Assembly	CE=90% CA=10%
		Qualified	2		
		Adverse	0		

		Disclaimer	0		
2	Development Expenditure	At least 30%	1	County Government	100%
		Below 30%	0		
4	Internal Audit Committee	In place	1	County Executiv Assembly	CE=90% CA=10%
4	County Budget Economic Forum	In place	1	County Government	100%
		Not In place	0		

c) **Total Equitable share of a County**

The following formula shall apply

TES$_i$= CA$_i$1+CA$_i$2

Whereas;

TES$_i$ = Total Equitable share of County $_i$

CA$_i$1= Allocation per County for FY 2019/20

CA$_i$2 =Equitable share over and above Kshs. 316.50 billion

The basis used is as shown

No.	Parameter	Weight
1	Population	18%
2	Health	17%
3	Agriculture	10%
4	Urban	5%
5	Roads	6%
6	Poverty	14%
7	Land	8% capped
8	Basic Share	20%
9	Fiscal Effort	1%
10	Fiscal Prudence	1%

SIMULATION FOR ILLUSTRATION ONLY

Simulation using Equitable share of Kshs. 325.7 billion for FY 2021/22 (as per budget estimates FY 2020/21) using Committee proposal 1 for Illustration Purpose

No	County	Actual Allocations 2020/21	Additional allocation in FY 2021/22
1	Baringo	5,095.65	164.90
2	Bomet	5,507.10	172.10
3	Bungoma	8,893.65	270.13
4	Busia	6,013.50	182.45
5	Elgeyo-Marakwet	3,861.30	115.20
6	Embu	4,304.40	132.25
7	Garissa	7,026.30	190.92
8	Homa-Bay	6,741.45	189.83
9	Isiolo	4,241.10	117.20
10	Kajiado	6,424.95	207.43
11	Kakamega	10,412.85	313.29
12	Kericho	5,380.50	163.69
13	Kiambu	9,431.70	308.37
14	Kilifi	10,444.50	275.08
15	Kirinyaga	4,241.10	136.46
16	Kisii	7,785.90	218.52
17	Kisumu	6,836.40	201.71
18	Kitui	8,830.35	258.82
19	Kwale	7,785.90	190.52
20	Laikipia	4,177.80	136.33
21	Lamu	2,595.30	80.17
22	Machakos	7,754.25	232.84
23	Makueni	7,406.10	195.41
24	Mandera	10,222.95	250.32
25	Marsabit	6,773.10	168.57
26	Meru	8,039.10	236.25
27	Migori	6,773.10	203.10

28	Mombasa	7,057.95	180.39
29	Murang'a	6,298.35	178.20
30	Nairobi City	15,919.95	494.52
31	Nakuru	10,476.15	332.22
32	Nandi	5,348.85	183.14
33	Narok	8,039.10	209.09
34	Nyamira	4,810.80	121.30
35	Nyandarua	4,874.10	143.03
36	Nyeri	5,412.15	155.29
37	Samburu	4,620.90	134.32
38	Siaya	5,791.95	175.54
39	Taita-Taveta	4,241.10	119.75
40	Tana-River	5,855.25	156.01
41	Tharaka-Nithi	3,924.60	98.91
42	Trans-Nzoia	5,760.30	186.23
43	Turkana	10,539.45	307.91
44	Uasin-Gishu	6,330.00	212.02
45	Vihiga	4,652.55	122.57
46	Wajir	8,545.50	216.29
47	West Pokot	5,000.70	161.43
	Total	**316,500.00**	**9,200.00**

(Sen. Mutula Kilonzo Junior, MP)

<u>Amendment</u> – <u>Dropped</u>.

<u>Further amendment proposed</u>

Motion made and Question proposed;

THAT the Motion be amended by deleting the full stop at the end and inserting the following words-

"subject to the deletion of recommendation appearing at paragraph 26 of the Report and substituting therefor the following new recommendations-

26. The proposed third basis/criteria for allocating among the counties the share of national revenue for financial years 2020/2021 to 2024/2025 be as follows —

    a. **Allocation for FY 2020/21**

Maintain the FY 2019/20 allocation per County

    b. **Equitable share not exceeding Kshs. 348 billion**

The following formula shall apply

CA_i1= O.45PN_i +0.26ES_i+0.18PI_i+0.08LA_i+0.02FE_i+0.01DF_i [6]

Where,

CA_i1 is revenue allocation of the ith County; PN_i is Population Factor (Population of ith County/total population); ES_i is Basic Equal Share Factor (Total Equal share/47); PI_i is Poverty Gap (Poverty Resources of ith County/total poverty Resources); LA_i Land Area Factor (Land Area (Sq. Kms.) of ith County/Total Land area); FE_i is Fiscal Effort Factor (County's own revenue increment/2009 population of the ith County); and DF_i is Development Factor=

$$ {1}\Big/{3}\left(\frac{Ei * Ni}{Sumi\big((Ei * Ni)\big)} + \frac{Wi * Ni}{Sumi(Wi * Ni)} + \left(\frac{URNi}{SumiURNi}\right) \right) $$

Where E_i is proportion of household with access to electricity of the i^{th}County

W_i is proportion of household without access to improved water of the i^{th}County

$URN_i$is Un-paved road network of class D, E, F, G, H, J, K, M, N & P of the ith County.

    c. **Equitable share over and above Kshs. 348 billion**

The following formula shall apply

CA_i2= 0.18*Population Index$_i$+ 0.17*Health Index$_i$+0.10* Agriculture Index$_i$+ 0.05*Urban Index$_i$+0.14* Poverty Index$_i$+ 0.08*Land Area Index$_i$+0.02*Fiscal Effort$_i$+0.04*Roads Index$_i$ +0.02* Prudence Index$_i$+0.20* Basic Share Index$_i$[7]

Where,

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[6] The formula will use the 2009 population & poverty statistics
[7] The formula will use the 2019 population and 2015/16 KIHBS poverty statistics

Parameter	Indicator of Expenditure Need
Health services	Health index- health facility-gaps (20%), three years average number of primary health care visits to levels 2 and 3 health facilities (60%) and three years average in-patient days in levels 4 and 5 hospitals (20%) $$\text{Facilty gap factor}_i = \frac{\text{Facilty gap funding in county i}}{\sum_{i=1}^{47}\text{facilty gap funding in county i}}$$ $$\text{Primary health care factor}_i = \frac{\text{No. of primary health care visits in county i}}{\sum_{i=1}^{47}\text{No. of primary health care visits in county i}}$$ $$\text{In} - \text{patient days factor}_i = \frac{\text{No. of in} - \text{patient days in county i}}{\sum_{i=1}^{47}\text{No. of in} - \text{patient days in county i}}$$
Agriculture services	$\text{Agriculture Index}_i = 0.005 * \text{Minimum Share index} + 0.095 * \frac{\text{Rural households in county i}}{\sum_{i=1}^{47}\text{Rural households in county i}}$
Other county services	$$\text{Population index}_i = \frac{\text{Population in county i}}{\sum_{i=1}^{47}\text{Population in county i}}$$
Minimum share	Basic share index $$= 0.19 * \text{Equal Share index} + 0.01 * \frac{\text{inverse of population in county i}}{\sum_{i=1}^{47}\text{inverse of population in county i}}$$
Land	$$\text{Land area index}_i = \frac{\text{Land area in county i}}{\sum_{i}^{47}\text{Land area in county i}}$$
Roads	$$\text{Roads index}_i = \frac{\text{Rural access index in county i}}{\sum_{i=1}^{47}\text{Rural access index in county i}}$$
Poverty level	$$\text{Poverty index}_i = \frac{\text{No. of poor people in county i}}{\sum_{i=1}^{47}\text{No. of poor people in county i}}$$
Urban service	$$\textbf{\textit{Urban Index i}} = \frac{\textbf{\textit{urban household in county i}}}{\sum_{i=1}^{47}\textbf{\textit{Urban Household in County i}}}$$

Fiscal prudence	No.	Variable	Indicator	Score	Responsible	Weighting
	1	Audit Reports	Non-Qualified	4	County Executive Assembly	CE=90% CA=10%
			Qualified	2		
			Adverse	0		
			Disclaimer	0		
	2	Development Expenditure	At least 30%	1	County Government	100%
			Below 30%	0		
	4	Internal Audit Committee	In place	1	County Executive Assembly	CE=90% CA=10%
	4	County Budget and Economic Forum	In place	1	County Government	100%
			Not In place	0		

SIMULATION FOR ILLUSTRATION ONLY

Simulation using Equitable share over and above Kshs. 348 billion using the proposed amendment by Senator Petronilla Were-

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
1	Mandera	10,222.95	**8,946.67**	**(1,276)**
2	Wajir	8,545.50	**7,813.54**	**(732)**
3	Kwale	7,785.90	**7,227.18**	**(559)**
4	Marsabit	6,773.10	**6,358.76**	**(414)**
5	Kilifi	10,444.50	**10,260.63**	**(184)**
6	Narok	8,039.10	**7,888.39**	**(151)**
7	Tharaka-Nithi	3,924.60	**3,781.58**	**(143)**
8	Nyamira	4,810.80	**4,690.32**	**(120)**
9	Mombasa	7,057.95	**7,010.21**	**(48)**
10	Tana-River	5,855.25	**5,884.65**	**29**
11	Makueni	7,406.10	**7,503.22**	**97**
12	Vihiga	4,652.55	**4,767.77**	**115**
13	Garissa	7,026.30	**7,189.49**	**163**
14	Homa-Bay	6,741.45	**7,072.92**	**331**
15	Taita-Taveta	4,241.10	**4,586.61**	**346**
16	Isiolo	4,241.10	**4,609.89**	**369**
17	Elgeyo-Marakwet	3,861.30	**4,317.65**	**456**
18	Lamu	2,595.30	**3,093.81**	**499**
19	Samburu	4,620.90	**5,130.86**	**510**
20	Kisii	7,785.90	**8,312.28**	**526**
21	Nyeri	5,412.15	**5,958.74**	**547**
22	Murang'a	6,298.35	**6,856.69**	**558**
23	Nyandarua	4,874.10	**5,506.60**	**632**
24	Turkana	10,539.45	**11,232.13**	**693**
25	Siaya	5,791.95	**6,590.16**	**798**
26	**Embu**	**4,304.40**	**5,118.58**	**814**

No	County	Allocation FY 2019/20	Allocations when Equitable share Hits Kshs. 348 billion	Net Change from the Baseline of 2019/20
27	Meru	8,039.10	8,876.27	837
28	Kisumu	6,836.40	7,687.11	851
29	Kericho	5,380.50	6,236.26	856
30	Kitui	8,830.35	9,754.29	924
31	Busia	6,013.50	6,956.83	943
32	West Pokot	5,000.70	5,972.45	972
33	Migori	6,773.10	7,774.54	1,001
34	Kirinyaga	4,241.10	5,268.65	1,028
35	Bomet	5,507.10	6,548.36	1,041
36	Baringo	5,095.65	6,194.56	1,099
37	Laikipia	4,177.80	5,305.73	1,128
38	Machakos	7,754.25	8,928.67	1,174
39	Trans-Nzoia	5,760.30	7,012.06	1,252
40	Bungoma	8,893.65	10,225.50	1,332
41	Nandi	5,348.85	6,760.87	1,412
42	Kajiado	6,424.95	7,899.10	1,474
43	Kakamega	10,412.85	11,896.16	1,483
44	Uasin-Gishu	6,330.00	7,980.33	1,650
45	Nakuru	10,476.15	12,333.57	1,857
46	Kiambu	9,431.70	11,821.97	2,390
47	Nairobi City	15,919.95	18,857.41	2,937
	Total	316,500	348,000	31,500

(Sen. Petronila Were Lokorio, MP)

Debate arising;

Pursuant to Standing Order 31(2), the Speaker interrupted the proceedings and adjourned the Senate at thirty-two minutes past Eight O'clock, without Question put.

9) **SENATE ROSE**   -   thirty two minutes past Eight O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, September 08, 2020 at 2:30 p.m.

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